XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(17)

मामला क्रमांक MAC 1190 सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश |
|---|---|---|
| | APPELLANT:<br>Claimant | Om Prakash, S/o Dhaniram, aged 23 years, Caste Kurmi, R/o Village – Patgawan, P.S. Pendra, Tahsil Pendra, Distt. – Bilaspur (C.G.) |
| | -Versus- | |
| | RESPONDENTS:<br>Driver | 1. Ramesh Kumar Rajak, S/o Premlal Rajak, aged 37 years, Jeep Driver, Jeep No. M.P.25 A/2811, R/o Kotmarra, P.S. Pasan, Distt. – Korba (C.G.) |
| | Owner | 2. Khamhan Singh, S/o Top Singh Rajput, aged 37 years, Jeep Owner, Jeep No. M.P. 25A/2811, Permanent R/o Village – Darra, Post Office Khujji, Dongargaon, Distt. – Rajnandgaon, Hal Mukam – Pasan, P.S. Pasan, Tahsil – Katghora, Distt. – Korba (C.G.) |
| | Insurer | 3. The Manager Oriental Insurance Company Limited, In front of High Court, Bilaspur (C.G.) |
| | (Miscellaneous Appeal under Section 173 of the Motor Vehicle Act) | |
| | **Division Bench: -**<br>**Hon'ble Shri L.C. Bhadoo &**<br>**Hon'ble Shri Sunil Kumar Sinha, JJ.** | |
| | **23-10-2007:-**<br>Shri Dhirendra Mishra, counsel for the appellant.<br>Oral order dictated on *Dais*. | |

(18)

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश |
|---|---|---|

**L.C. BHADOO, J.**

Claimant Om Prakash has preferred this appeal under Section 173 of the M.V. Act, being aggrieved by the award dated 31-7-2007 passed by the Additional Motor Accident Claims Tribunal, Pendra Road, in Claim case No.42/2006 whereby and whereunder the Tribunal has awarded compensation under following heads:-

| | | |
|---|---|---|
| (i) | Treatment and medicine | Rs.10,000/- |
| (ii) | Special diet | Rs.2,000/- |
| (iii) | Loss of Income | Rs.1,000/- |
| (iv) | Pain and suffering | Rs.5,000/- |
| | | In all Rs.18,000/-. |

Brief facts of the case are that on 17-7-2002 at about 8 p.m. the claimant/appellant was going on his bicycle to Pendra Road for selling milk. When he reached near the forest point, Pendra, driver of the jeep bearing No.M.P.25-A/2811, who was driving the jeep in rash and negligent manner, dashed against cycle of the claimant from behind, as a result of which cycle was damaged. The claimant sustained injuries on his hand, leg, face and other parts of the body. Persons standing near the site took him to the Pendra Hospital. His family members were also informed. The applicant sustained fracture below knee and on the chin. After applying ring treatment was given, as a result of which the applicant has become incapacitated to work. He used to earn Rs.300/- per day by selling milk, out of that he used to save Rs.200/- per day. After the incident, he has

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश |
|---|---|---|

become incapacitated. He spent about Rs.80,000/- towards treatment and he claimed in all Rs.13 lakhs.

Reply was filed on behalf of the Insurance Company stating that the claimant used to earn about Rs.40/- per day. It is incorrect that he used to earn Rs.200/- per day. It has further been stated that the claimant has not produced any certificate regarding incapacity. He has not produced any medical certificate for future loss. He has not produced any document. It has further been stated that the claimant sustained simple injuries and he has completely regained his health. He is discharging his daily work. Therefore, claim petition be rejected.

The claimant produced his evidence. After evaluation of the evidence in paras 25 & 26, after considering medical treatment papers, the Tribunal reached to the conclusion that total expenses incurred in medical treatment was to the tune of Rs.801/-. Vide para-26, in all Rs.10,000/- has been awarded under the heading 'medical expenses & treatment' and Rs.2,000/- has been awarded under the heading 'special diet'. In para-28 the Tribunal after evaluating evidence produced by the claimant has held that the claimant remained in the Pendra Hospital for treatment for 6 days. No proof or evidence has been produced to show that as to how many days he remained in the Bilaspur Hospital, therefore, the Tribunal reached to the conclusion that he remained in the hospital for 10 days. It has further been held that he used to earn Rs.100/- per day, therefore, he suffered loss of Rs.1,000/- on account of remaining in the hospital. This finding of the Tribunal under the above headings i.e. for treatment & medical expenses and loss suffered on account of

मामला क्रमांक MAC 1190/07 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश |
|---|---|---|
| Barve | hospitalization & special diet is just and reasonable. Further, the Tribunal has awarded Rs.5,000/- towards pain and suffering, thereby in all Rs.18,000/-has been awarded looking to the materials produced and evidence adduced by the claimant. The finding of the Tribunal is based on proper appreciation of the evidence. The compensation amount awarded by the Tribunal is just and reasonable. The finding of the Tribunal cannot be said to be perverse or unreasonable in any manner. Therefore, we do not find any substance in this appeal, same is liable to be dismissed and it is hereby dismissed.<br><br>Sd/-<br>L.C. Bhadoo<br>Judge | Sd/-<br>Sunil Kumar Sinha<br>Judge |